

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CHIKEZIE OTTAH,	:	CASE NO. 1:11-cv-06187-RMB
	:	
PLAINTIFF,	:	[JUDGE RICHARD M. BERMAN]
	:	
VS.	:	
	:	<u>ANSWER TO AMENDED COMPLAINT</u>
VERIFONE SYSTEMS, INC.,	:	
	:	
DEFENDANT.	:	
	:	

VeriFone Systems, Inc.'s Answer to Amended Complaint

In answer to Plaintiff's Complaint, as amended November 15, 2011¹, Defendant VeriFone Systems, Inc. (VeriFone) denies all of Plaintiff's allegations, except as specifically admitted below:

I. VeriFone is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph I of the Amended Complaint about Plaintiff and therefore denies them. VeriFone admits it has a place of business at 2099 Gateway Place, Suite 600, San Jose, California 95110. VeriFone otherwise denies the allegations in Paragraph I of the Complaint.

II. VeriFone denies that diversity of citizenship is a basis for subject matter jurisdiction in this case. VeriFone admits that an allegation of patent infringement of a US patent would be a basis for subject matter jurisdiction in this case but that subject matter jurisdiction is

¹ While Defendant was served with an Amended Complaint by mail, with a certificate of service dated November 15, 2011, the Amended Complaint does not appear on Pacer and could not be confirmed as having been filed with the Clerk's Office. For the convenience of the Court, it is being attached as Exhibit 1 to the Declaration of Cosmin Maier.

lacking because Plaintiff does not own all substantial rights in the alleged patent. VeriFone denies that an allegation of infringement of an Australian patent right is a basis for subject matter jurisdiction in this case. VeriFone denies that personal jurisdiction and venue are proper in this case. Plaintiff attached to the Amended Complaint a letter purporting to be from two other inventors named on the face of the alleged patent. The letter lacked any assignment or exclusive license of the alleged patent to Plaintiff. VeriFone denies that Plaintiff has standing to sue on the alleged patent. Plaintiff lacks standing because other parties, including at least the two other inventors, not joined in the lawsuit may still own substantial rights in the alleged patent.

III. VeriFone denies the allegations in Paragraph III of the Complaint.

IV. Paragraph IV of the Complaint is blank.

V. VeriFone denies the allegations in Paragraph V of the Complaint.

Affirmative Defenses

VeriFone pleads the following affirmative defenses without any concession that VeriFone bears the burden of proof.

1. VeriFone has not infringed any valid claim of US Pat. No. 7,152,840 (the '840 patent) directly or indirectly, literally or under the doctrine of equivalents. VeriFone has not contributed to any infringement by others or induced others to infringe any claim of the '840 patent.

2. Plaintiff has failed to state a claim upon which relief may be granted.

3. The '840 patent is invalid under 35 USC §§ 101, 102, 103 and 112 and unenforceable due to laches, estoppel, waiver, failure to mark, unclean hands, and patent misuse.

4. Plaintiff lacks standing to sue because other parties not joined in this lawsuit may have rights in the alleged patent.

WHEREFORE, VeriFone prays that the relief requested by Plaintiff be denied and that judgment be entered in favor of VeriFone as follows:

1. That Plaintiff's alleged patent be declared invalid and unenforceable.
2. That VeriFone be declared not to infringe Plaintiff's patents.
3. That VeriFone be awarded costs and attorneys fees.
4. That the Court order other remedies as appropriate.

DATED this 2nd day of December, 2011.

Respectfully submitted,

WILMER CUTLER PICKERING HALE AND
DORR LLP

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